

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

DEBORAH WOODS,

Plaintiff(s),

-against-

THE CITY OF NEW YORK, PORT AUTHORITY OF
NEW YORK AND NEW JERSEY AND
POLICE/PEACE/SECURITY OFFICER "JOHN DOE",

Defendant(s).

ANSWER

Index #: 009409/2015

Law Dept. #: 2015-037977

Defendant THE CITY OF NEW YORK, by ZACHARY W. CARTER,

Corporation Counsel, answering the complaint, allege upon information and belief:

1. Deny each allegation set forth in paragraph(s) 2, 20, 21, 26, 29, 30, 35, 36, 41, 44, 45, inclusive.
2. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations set forth in paragraph(s) 1, 8-13, 15, 16, inclusive.
3. Deny the allegations set forth in paragraph(s) 4-6, inclusive, except that a notice of a claim was presented, that more than thirty days have elapsed without adjustment thereof.
4. Deny each allegation set forth in paragraph(s) 3, 14, inclusive, except that the City of New York is a municipal corporation.
5. Deny each allegation set forth in paragraph(s) 22, 31, 37, inclusive, except as otherwise pleaded herein.
6. Deny each allegation set forth in paragraph(s) 7, 17-19, 24, 25, 27, 28, 32, 34, 38-40, 42, 43, inclusive, so far as the same may refer to the defendant(s) answering hereby.

AFFIRMATIVE DEFENSE(S)

7. Plaintiff(s)' culpable conduct caused or contributed, in whole or in part, to his/her/their injuries and or damages.

8. At all times mentioned in the complaint, plaintiff(s) knew or should have known in the exercise of due/reasonable care of the risks and dangers incident to engaging in the activity alleged. Plaintiff(s) voluntarily performed and engaged in the alleged activity and assumed the risk of the injuries and/or damages claimed. Plaintiff(s) failed to use all required, proper, appropriate and reasonable safety devices and/or equipment and failed to take all proper, appropriate and reasonable steps to assure his/her/their safety. Plaintiff(s)' primary assumption of risk solely caused his/her/their injuries and/or damage and defendant(s) owed no duty to the plaintiff(s) with respect to the risk assumed. Plaintiff(s)' express assumption of risk solely caused his/her/their injuries and/or damage and defendant(s) owed no duty to the plaintiff(s) with respect to the risk assumed. Plaintiff(s)' implied assumption of risk caused or contributed, in whole or in part to his/her/their injuries. In any action for injuries arising from the use of a vehicle in, or upon which plaintiff(s) were riding; it will be claimed that the injuries and/or damages sustained were caused by the failure of the plaintiff(s) to use available seat-belts and/or other safety devices.

9. Defendants are immune from suit for their exercise of discretion in the performance of a governmental function and/or their exercise of professional judgment.

10. The amounts recoverable by plaintiff(s) are subject to limitation pursuant to Section 1601 of the Civil Practice Law and Rules, by reason of the culpable conduct of other person(s) who are, or with reasonable diligence could have been made party defendant(s) to this action, or pursuant to Section 15-108 of the General Obligations Law, by reason of a prior settlement between plaintiff(s) and said person(s), or pursuant to Section 4545 of the Civil

Practice Law and Rules are subject to reduction by collateral sources received by plaintiff(s), or by reason of the fact that punitive damages are not recoverable against municipal defendant(s).

11. If plaintiff demonstrates that the acts complained of were undertaken in the scope of the actor(s) employment, then such acts as may have been committed by law enforcement officers in the employ of the City of New York were justified as being reasonably necessary, and were committed in good faith without malice and with probable cause, and in the exercise of professional judgment or the performance of discretionary functions for which defendant(s) are qualifiedly privileged under the laws of this State and of the United States. Individual defendant(s) represented by the Office of the Corporation Counsel (if any) did not violate any clearly established constitutional or statutory right of which a reasonable person would have known and therefore are/is protected by qualified immunity.

12. Plaintiff(s)' complaint fails to consecutively number allegations as required by section 3014 of the CPLR.

13. Plaintiff(s)' complaint fails to comply with section 3017(c) of the CPLR.

CROSS-CLAIMS

14. Any damages sustained by the plaintiff(s) were caused in whole or in part by the acts or omissions of defendant(s) PORT AUTHORITY OF NEW YORK AND NEW JERSEY, who are or may be liable to the defendant(s) answering hereby for contribution on the basis of their equitable shares of responsibility, or for indemnity on the basis of a contract between them, actual or implied.

WHEREFORE, defendant(s) demand judgment dismissing the complaint and all cross-claims against them, or, in the event that they are adjudged liable, granting judgment over, or apportioning such liability in accordance with their equitable shares of responsibility, and awarding the costs of this action, together with such other and further relief as to the court may seem just.

ZACHARY W. CARTER
Corporation Counsel
100 Church Street
New York, New York 10007

VERIFICATION

Re: DEBORAH WOODS; LD #: 2015-037977

ANNA M. CHETNIK being duly sworn deposes and says that: deponent is an employee of the Office of the Corporation Counsel; that deponent has read the foregoing answer, cross-claim(s) and counterclaim(s), if any, and knows the contents thereof; that the same are true to deponent's own knowledge, except as to the matters alleged upon information and belief, which deponent believes to be true based upon the files, books and records maintained by The City of New York, New York City Health and Hospitals Corporation or the New York City Board/Department of Education, and the officers or agents thereof.

Dated: New York, New York
August 19, 2015


ANNA M. CHETNIK

Sworn to before me this
day of August, 2015


NOTARY PUBLIC

JENNIFER E. MAZZIO
Commissioner of Deeds
City of New York No. 3-7419
Certificate Filed in New York County
Commission Expires May 1, 2017

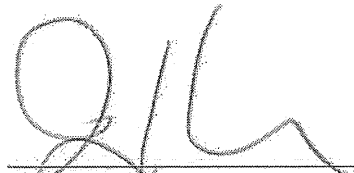
STIPULATION/CERTIFICATION

IT IS HEREBY STIPULATED AND AGREED, that at any time prior to the filing of a note of issue in this action, plaintiff(s) may amend the complaint to name additional defendants herein, provided that such additional defendants shall not include the City of New York, the Board/Department of Education, Health & Hospitals Corporation, City University of New York, or any of their respective departments, subdivisions or employees, nor any other person entitled to defense or indemnification by the City of New York.

The signature below shall constitute the signature required pursuant to NYCRR 130-1.1-a and pertains to all of the enclosed documents: answer, cross-claim(s) and counter-claims(s), if any, together with the accompanying combined demands for particulars and discovery.

Dated: New York, New York
August 18, 2015

By:


JOSEPH P. CARDILLO
Special Assistant Corporation Counsel

Attorney(s) for Plaintiff(s)

Please do not send correspondence to the above named individual unless otherwise directed. See Answer back for additional contact information.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

X

DEBORAH WOODS,

Plaintiff(s),

AFFIDAVIT OF SERVICE

-against-

THE CITY OF NEW YORK, PORT AUTHORITY OF NEW
YORK AND NEW JERSEY AND
POLICE/PEACE/SECURITY OFFICER "JOHN DOE",
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X

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

Dmitry Anom, being duly sworn deposes and says that:

1. The deponent is not a party to the action and is 18 years of age or older.
2. On August 19, 2015, the deponent served the annexed ANSWER WITH CROSS-

CLAIMS AND DEMANDS upon the following person or persons:

DEBORAH WOODS
by mailing a copy to his/her/their attorney(s),
HARMON, LINDER & ROGOWSKY
at 3 PARK AVENUE, 23RD FLOOR, SUITE 2300
NEW YORK, NY 10016

being the address designated by said attorney(s) for that purpose by depositing the same in a first class, postpaid, properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York pursuant to CPLR 2103(b)(2).

Sworn to before me this

19 day of August, 2015

Dmitry Anom
Dmitry Anom

BELINDA YEE
Notary Public, State of New York
No. 01YEG116477
Qualified in New York County
Commission Expires: 10/04/2016

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- against -

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AND NEW JERSEY AND POLICE/PEACE/SECURITY OFFICER
"JOHN DOE",

Defendant(s).

**ANSWER WITH CROSS-CLAIMS AND
DEMANDS**

ZACHARY W. CARTER
Corporation Counsel
Attorney for Defendant THE CITY OF NEW YORK,
100 Church Street
New York, New York 10007
Telephone Numbers:

Early Intervention Unit (settlements – all Boroughs)
(212) 356-3144
Pleadings Unit (212) 356-3235 (pleadings matters only)

All Other Matters (Inquire by county of venue)
Bronx Office: (718) 503-5030 (EBT's - 5045)
Brooklyn Office: (718) 222-2000 (EBT's-2069)
Manhattan Office: (212) 356-2725 (EBT's-2791)
Queens Office: (718) 558-2100 (EBT's - 2105)
Staten Island Office: (718) 447-5983 (EBT's-5985)

Please refer to the following Law Dept. #: **2015-037977**

and indicate the County in which the action is pending in all papers,
correspondence and other communications with respect thereto.